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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

ALAN JAMES MOON,

Defendant and Appellant.

C071583

(Super. Ct. No. CM035929)

In exchange for a stipulated sentence, defendant Alan James Moon pleaded no contest to making criminal threats and admitted previously serving a prison term.

Defendant's only contention on appeal is that the trial court erred in ordering him to pay a \$286 supplemental probation report fee because there is insufficient evidence to support a finding he had the ability to pay that fee.

Defendant claims that because Penal Code section 1203.1b is predicated on a defendant's ability to pay and there was no evidence before the trial court that he had such ability, the fees were improperly imposed. The People respond that defendant

forfeited this issue by not objecting in the trial court to imposition of the fee. The People have the better argument.

In a recent decision, the California Supreme Court ruled that “a defendant who fails to contest the booking fee when the court imposes it forfeits the right to challenge it on appeal.” (*People v. McCullough* (2013) 56 Cal.4th 589, 591.) Here, defendant failed to contest the booking fee when it was imposed by the trial court. Accordingly, he has forfeited the right to challenge that fee on appeal.

We have, however, identified a clerical error on the abstract of judgment that requires correction: the abstract of judgment omits the court’s order that defendant pay a \$286 supplemental probation report fee. We will direct the trial court to correct this clerical error.

DISPOSITION

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to include the court’s order that defendant pay a \$286 supplemental probation report fee. The trial court shall forward a certified copy of the corrected abstract of judgment to the Director of the California Department of Corrections and Rehabilitation.

RAYE, P. J.

We concur:

MURRAY, J.

HOCH, J.